

JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAMIAN R. GARCIA, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

GENESCO, INC., and DOES 1-20,  
inclusive,

Defendants.

Case No. : CV 13-6384-DMG (JEMx)

**FINAL ORDER APPROVING  
CLASS ACTION SETTLEMENT  
AND JUDGMENT**

1           The Court conducted a hearing regarding Plaintiff's Motion for Final  
2 Approval of Class Action Settlement and Judgment, Plaintiff's Unopposed  
3 Application for Approval of Attorneys' Fees and Costs, Class Representative's  
4 Service Payment and General Release Payment, and Settlement Administration  
5 Expenses on May 8, 2015, at 9:30 a.m. The proposed settlement in this case was  
6 preliminarily approved by the Court on December 9, 2014. Pursuant to the Court's  
7 Preliminary Approval Order and the Notice provided to the Class, the Court  
8 conducted a final fairness hearing as required by Federal Rule of Civil Procedure  
9 23(e).

10           The parties appeared by and through their respective counsel of record.

11           The Court having read and considered the papers and the arguments of  
12 counsel, the response of the Class Members to the Joint Stipulation of Settlement  
13 and Release (hereafter, the "Settlement Agreement"), and good cause appearing  
14 therefor, the Court GRANTS Plaintiff's Motion for Final Approval of Class Action  
15 Settlement and Judgment, Plaintiff's Unopposed Application for Approval of  
16 Attorneys' Fees and Costs, Class Representative's Service Payment and General  
17 Release Payment, and Settlement Administration Expenses in its entirety and rules  
18 as follows.

19 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

20           1. Except as otherwise specified herein, the Settlement Agreement and  
21 all definitions set forth therein are hereby incorporated with and made part of this  
22 Final Order Approving Class Action Settlement and Judgment ("Final Order and  
23 Judgment").

24           2. As used herein, the term "Settlement Class Member" shall be defined as  
25 all Class Members who did not properly and timely request exclusion pursuant to  
26 the Order Granting Preliminary Approval of Class Action settlement entered by  
27 this Court on December 9, 2014.

1           3. Attached as **Exhibit A** is a list containing the name of the one class  
2 member who submitted a valid request for exclusion. This class member is hereby  
3 excluded from the class and not bound by the Settlement or the Court's judgment  
4 in this action.

5           4. The Settlement Agreement previously filed in this action, and the  
6 terms set forth therein, are hereby found and determined to be fair, reasonable, and  
7 adequate to the Class when balanced against the probable outcome of extensive  
8 and costly litigation. *Staton v. Boeing*, 327 F.3d 938, 960 (9th Cir. 2003).  
9 Substantial formal and informal discovery, investigation, and research have been  
10 conducted such that the Parties' respective counsel at this time are reasonably able  
11 to evaluate their respective positions. It appears to the Court that settlement will  
12 avoid substantial additional costs by all parties, as well as the delay and risk that  
13 would be presented by further prosecution of this action. The Court finds that the  
14 settlement that has been reached as the result of intensive, noncollusive, arm's-  
15 length negotiations, thorough factual and legal investigation, and the good faith  
16 exchange of information and documents. In granting final approval of the  
17 Settlement Agreement, the Court considered the nature of the claims, the amounts  
18 and kinds of benefits paid in settlement, the allocation of the settlement proceeds to  
19 the Settlement Class Members, and the fact that the settlement represents a  
20 compromise of the Parties' respective positions rather than the result of a finding  
21 of liability at trial. The Court further finds that the positive response of the Class  
22 to the Settlement Agreement amply supports final approval, as no Settlement Class  
23 Member has objected to the Settlement Agreement, and thus the Settlement  
24 Agreement is hereby approved and ordered to be performed by all parties.

25           5. The Court finds that the form, manner and content of the Class Notice  
26 as detailed in the Settlement Agreement and Exhibits thereto provided a means of  
27 notice reasonably calculated to apprise the Settlement Class Members of the  
28 pendency of the action and the proposed settlement, and thereby met the

1 requirements of Rule 23(c)(2) of the Federal Rules of Civil Procedure, as well as  
2 due process under the United States Constitution and any other applicable law, and  
3 constituted due and sufficient notice to all Settlement Class Members entitled  
4 thereto. Specifically, individual notice was provided to all Settlement Class  
5 Members by regular mail to all such persons at their last known mailing address on  
6 file with Defendant, or an updated address obtained by the Claims Administrator.  
7 The Claims Administrator took reasonable steps to provide the Notice of  
8 Settlement and Claim Form to Settlement Class Members when it learned that the  
9 address to which those documents were mailed was no longer accurate. These  
10 documents informed Settlement Class Members of the terms of the Settlement  
11 Agreement, their right to claim a share of the settlement proceeds and the  
12 procedure therefore, their right to object to the Settlement or to opt out of the  
13 Settlement and pursue their own remedies, and their right to appear in person or by  
14 counsel at the Final Approval Hearing and be heard regarding the final approval of  
15 the Settlement. Notice was provided with ample time for the Settlement Class  
16 Members to follow these procedures.

17         6. This Final Order and Judgment applies to all claims or causes of  
18 action settled under the terms of the Settlement Agreement, and shall be fully  
19 binding with respect to all Settlement Class Members. Upon entry of this Order,  
20 Class Representative and Plaintiff Damien Garcia and all Settlement Class  
21 Members who did not timely and validly request exclusion are hereby barred and  
22 permanently enjoined from asserting, instituting, or prosecuting, either directly or  
23 indirectly, any and all Released Claims pursuant to, and to the extent provided, in  
24 the Settlement Agreement. All of the Settlement Class Member Released Claims  
25 shall be conclusively deemed released and discharged as to Defendant as provided  
26 in the Settlement Agreement. All Settlement Class Members shall be bound by  
27 this release whether or not they have submitted a Claim Form necessary to receive  
28

1 payment of their allocated settlement amount, unless they validly and timely  
2 requested to be excluded from the Settlement.

3 7. This Final Order shall have the force and effect of *res judicata* as to  
4 each Settlement Class Member who did not timely opt out of the Settlement  
5 Agreement.

6 8. The Settlement is not an admission by Defendant nor is this Final  
7 Order a finding of the validity of any claim in the lawsuit or any wrongdoing by  
8 Defendant. Furthermore, the Settlement will not be (i) construed as, offered or  
9 admitted in evidence as, received as, or deemed to be evidence for any purpose  
10 adverse to Defendant, including, but not limited to, evidence of a presumption,  
11 concession, indication or admission by Defendant of any liability, fault,  
12 wrongdoing, omission, concession or damage; nor (ii) disclosed, referred to or  
13 offered in evidence against Defendant, in any further proceeding in the lawsuit, or  
14 any other civil, criminal or administrative action or proceeding except for purposes  
15 of effecting the Settlement. However, the Settlement may be admitted in evidence  
16 and otherwise used in any and all proceedings to enforce any or all terms of the  
17 Settlement, or to support a defense by the Released Parties of *res judicata*,  
18 collateral estoppel, release, waiver, good faith settlement, judgment bar or  
19 reduction, and any other applicable defenses.

20 9. All claims asserted by Representative Plaintiff and the Settlement  
21 Class Members in this Action are hereby dismissed with prejudice.

22 10. The Claims Administrator shall conduct the administration of the  
23 settlement payments as provided in the Settlement Agreement. The Claims  
24 Administrator shall disburse attorneys' fees and costs to the Class Counsel from  
25 the Maximum Settlement Amount as ordered by the Court. The Claims  
26 Administrator shall prepare and issue all disbursements of the Net Settlement  
27 Amount to Qualified Claimants.  
28

1           11. The Court finds that James R. Hawkins APLC is qualified to represent  
2 the Settlement Class and confirms their appointment as Class Counsel. The Court  
3 hereby grants Class Counsel's request for an award of attorneys' fees in the  
4 amount of \$275,000.00 and costs in the amount of \$7,557.80 to be paid from the  
5 Maximum Settlement Amount. The Court finds that the amount of this award is  
6 fair and reasonable in light of the time and efforts expended by Class Counsel in  
7 prosecuting this Action and work performed which benefitted the Class.  
8 Importantly, there were no objections to the requested fee and costs award from  
9 any member of the Class.

10           12. The Court finds and determines that the payment of \$3,750 to the  
11 California Labor and Workforce Development Agency ("LWDA") in settlement of  
12 the LWDA's share of the penalties alleged by Plaintiff and compromised under the  
13 settlement is fair and reasonable. The Court hereby gives final approval to and  
14 orders that the payment of that amount be made to the LWDA out of the Maximum  
15 Settlement Amount in accordance with the terms of the Settlement.

16           13. The Court finds that it is appropriate for the Class Representative  
17 Damien Garcia to be paid \$5,000 as a Service Enhancement in recognition of his  
18 contribution to this litigation and service to the Class, and as a General Release  
19 Payment in consideration of her general release of all claims against Defendant.  
20 This payment shall be paid from the Maximum Settlement Amount, as detailed in  
21 the Settlement Agreement.

22           14. The Court approves the payment of settlement administration expenses  
23 to CPT Group, Inc. in an amount not to exceed \$19,500. This payment shall be  
24 made from the Maximum Settlement Amount and any uncharged portion of this  
25 amount shall be added to the Net Settlement Amount.

26           15. Without affecting the finality of this Final Order and Judgment in any  
27 way, the Court hereby retains continuing jurisdiction over the Parties for the  
28 purpose of construing, enforcing and administering this Final Order and Judgment

1 and the terms of the Settlement Agreement. The time to appeal from this Judgment  
2 shall commence upon its entry.

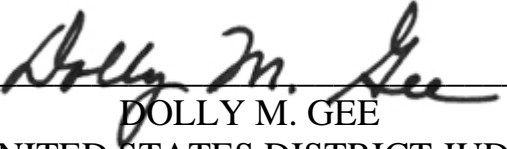
3 16. In the event that the Effective Date defined in the Settlement  
4 Agreement does not occur, this Judgment shall be rendered null and void and shall  
5 be vacated, *nunc pro tunc*, except insofar as expressly provided to the contrary in  
6 the Settlement Agreement, and without prejudice to the status quo ante rights of  
7 Plaintiff, Settlement Class Members, and Defendant.

8 17. The Court hereby enters Judgment approving the terms of the  
9 Settlement. This document shall constitute a final judgment for purposes of  
10 Federal Rule of Civil Procedure 58.

11 18. This case is hereby **DISMISSED WITH PREJUDICE**, with each  
12 party to bear his, her, or its own costs, except as set forth herein, and with this  
13 Court retaining exclusive jurisdiction to enforce the Settlement Agreement,  
14 including jurisdiction regarding over the disbursement of the Settlement funds.

15  
16 **IT IS SO ORDERED.**

17  
18 Dated: May 8, 2015

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DOLLY M. GEE  
UNITED STATES DISTRICT JUDGE

1                    **Exhibit A to Final Approval Order – *Garcia v. Genesco, Inc.***

2        Tami Holtz

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